

From: Alan Grover
To: Microsoft ATR
Date: 1/23/02 10:27am
Subject: Microsoft Settlement

23 January 2002

Sirs,

Under the Tunney Act, I'd like to comment on the proposed Microsoft settlement. I have been developing software for more than 20 years for many operating systems. I personally have experienced the difficulties resulting from Microsoft's monopoly and anti-competitive behaviors, restricting my ability to compete in the market place.

I object to the proposed Microsoft settlement. The clear finding of fact (Microsoft is a monopoly) is not addressed by the settlement. It allows Microsoft, as an entity, to continue unchanged, with minor modifications to it's behavior, and does not address the barrier-to-entry.

In my opinion, it is laughable that the settlement applies only to Windows 2000 Professional, Windows XP Home, and Windows XP Professional. As we saw in the previous consent decree, Microsoft merely moves on to the next generation of a product/operating-system to evade the restrictions. Microsoft can, and will, avoid the entire settlement by merely producing the next version of their operating system and renaming it. The finding of the monopoly was based on Microsoft's operating system running on Intel hardware, and is thus not addressed.

The manipulation of definitions similarly allows Microsoft to avoid meaningful restrictions on API's (limiting it to a few specific application-support layers, instead of applying to all interfaces between programs and the operating system). Further, even the limited definition allows Microsoft to exclude significant middleware such as Outlook (as opposed to the more limited, consumer oriented, Outlook Express). As well, the new .NET platform, claimed to be central to Microsoft's future direction by Microsoft, is not included in the settlement.

The settlement does not appear to address monopolistic practices expressed in several Microsoft EULA's (end user license agreements) that attempt to lock-out open-source or other free software. Various leaked memos have Microsoft identifying open-source, et. al., as a competitive solution that they wish to combat.

Along the same lines, the Microsoft development system (Microsoft Platform SDK), used to write programs, attempts to stifle competition by preventing the resulting programs from being distributed for use with any other operating system (by means of placing a license restriction on "components" which are required to run the programs).

Finally, the settlement provides an (absence of) enforcement mechanism that overwhelmingly favors Microsoft. There is no actual enforcement specified in the settlement, leaving it to the legal system which will allow Microsoft to use its huge financial and monopolistic advantage to discourage and intimidate any who attempt to bring suit.

The Proposed Final Judgment should not be adopted. A judgment, in the public interest (as required), should be written, adopted, and enforced. Many others have proposed such judgments.

For reference, please see <http://www.kegel.com/remedy/remedy2.html> with further information on many of these points.

Alan Grover
awgrover at mail.msen.com
515 Cherry St.
Ann Arbor, MI 48103